



Appeal Decision

Hearing held on 16 August 2011

Site visit made on 16 August 2011

by John Chase MCD Dip Arch RIBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 September 2011

Appeal Ref: APP/L3625/A/11/2153565

Land to the rear of 109 Bell Street, Reigate, Surrey, RH2 7JB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Sixmile Developments against the decision of Reigate & Banstead Borough Council.
 - The application Ref P/11/00361/F, dated 7 March 2011, was refused by notice dated 4 May 2011.
 - The development proposed is the erection of 2 No 3 bed and 1 No 5 bed dwellings with associated access road, detached double car port, and alterations to the existing access road and the junction with Lesbourne Road.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 No 3 bed and 1 No 5 bed dwellings with associated access road, detached double car port, and alterations to the existing access road and the junction with Lesbourne Road at land to the rear of 109 Bell Street, Reigate, Surrey, RH2 7JB in accordance with the terms of the application, Ref P/11/00361/F, dated 7 March 2011, subject to the conditions in the schedule at the end of this decision.

Procedural Matter

2. The copy of drawing No 09/22/09H submitted to the Inspectorate shows the red-line site boundary excluding a triangle of land to be acquired from Lesbourne Court in order to carry out junction improvements. The Council confirm that the planning application drawings included this land within the application site, and the appeal has been considered on that basis.

Main Issue

3. The main issue is the effect of the development on highway safety in respect of the geometry and gradient of the access drive, and pedestrian visibility at its junction with Lesbourne Road.

Reasons

4. The existing access tapers and falls at a gradient of about 1 in 8 towards its junction with the B2034 Lesbourne Road. In combination with a driveway to Howard Road, it serves garage blocks and car parking, amounting to about 47 car spaces. It is indicated that many of these spaces have legal restrictions to prevent the use of the of the Lesbourne Road driveway for egress, and this is reflected in the appellants' survey figures, which show a majority of vehicles

entering via Lesbourne Road and leaving through Howard Road. Despite the number of car spaces served, this data indicates that the volume of usage is relatively low, amounting to 15 and 13 two way daily movements for the two accesses respectively. The new houses would provide 6 additional car spaces, with the intention that access in both directions would take place via the Lesbourne Road driveway. The resulting increase in vehicles would approximately double the existing two way daily movements on this access, including a substantial rise in the numbers of vehicles exiting the junction.

5. In order to mitigate the situation, the appellants propose to widen the tapering section of driveway to allow two way access and improve sight lines, to replace the existing broken road surface with an anti-skid layer, and introduce a footpath along the western side of the access. However, the Highway Authority point out that the road, if treated as a shared surface, would exceed the recommended gradient of 1 in 20 contained in *The Surrey Design Technical Appendix* (adopted by the Council as Supplementary Planning Guidance), leading to potential vehicle/pedestrian conflicts, and difficulties for the disabled, the driveway also being steeper than the recommended maximum of 1 in 12 contained in the Department for Transport publication *Inclusive Mobility*. If treated as a segregated surface, the footway adjacent to the Lesbourne Road junction would be narrower than recommended standards, and would be obstructed by bins on collection day.
6. These points are noted. However, in this established location full compliance with current standards is not possible, and it is necessary to balance the effect of any intensification in the use of the roadway with the proposed improvements. In this respect, whilst the additional movements would be a material increase over the present use of the driveway, this largely arises because of the very limited amount of traffic generated by the existing users, which could change at any time. The absolute increase in movements arising out of 6 additional car spaces would be relatively low. On the other hand, the existing access is demonstrably sub-standard, with a narrow carriageway at the entrance creating a risk for pedestrians and the likelihood of vehicle conflicts. The improved width and visibility would increase safety at the entrance, and the new footway, whilst narrow, would provide a refuge which does not presently exist. Similarly, a new, slip resistant surface would help to mitigate the effect of the steep slope by increasing vehicle control.
7. Overall, the proposed improvements would offer a substantial increase in highway convenience and safety, which would adequately compensate for the additional use of the road. There is an existing planning permission to carry out widening of the junction (10/01642/F), but there is no certainty that it would be implemented in isolation. It is probable that some existing users would be diverted from the Howard Road driveway if the Lesbourne Road access is made more attractive, especially because there do not appear to be any physical means of enforcing legal restrictions on its use. However, a similar consideration would apply to the improvement proposals that have already been permitted.
8. With respect to pedestrian visibility, the 2mx2m sight line recommended in the *Technical Appendix* would cross over land outside the western site boundary, being part of the forecourt of the adjoining public house. It was indicated at the Hearing that there are legal restrictions on any development of this land, and that the adjoining owners are, in any event, willing to enter a legal

agreement with the appellants to secure its use for a sight line, although no formal agreement was submitted in evidence. However, even if it were possible to secure legal rights, in practice, the piece of land in question is of very limited extent, and unlikely to be suitable for any use that would result in its permanent obstruction, including as an outside sitting area. It may well be that the most likely loss of visibility would arise out of patrons of the public house gathering at the front of the building, but it is probable that such use would occur, whether or not there was any agreement preventing development of the land. There seems to be little practical benefit in making the housing scheme dependent on the acquisition of legal rights over the land.

9. At the time of the site visit, the footpath along Lesbourne Road had relatively limited use. However, it is accepted that, when the schools are in operation, there is much greater pedestrian traffic, and the appellants did not contest the claim that groups of pedestrians cluster around the nearby zebra crossing. However, despite the activity in this road, there is not a compelling case that vehicle egress from the modified driveway would be inherently dangerous. The Lesbourne Road footpath is relatively wide, and the revised road geometry would increase the sight lines over those that are presently available. In any event, by the nature of this location, and especially if the pavement is in regular use, drivers are likely to emerge with caution. Having regard to the projected increase in the number of vehicles, and the proposed improvements to the junction, the limitations of the western sight line are not of overwhelming importance.
10. Despite these considerations, it is accepted that the very close proximity of the junction with the zebra crossing in Lesbourne Road has the potential to create dangerous conflicts, and it is undesirable that there should be additional use of the driveway unless the crossing is moved further to the west. The appellants propose to carry out this work and have agreed the principles with the Highway Authority. No legal agreement has been provided to secure its implementation, but the main parties confirmed that an appropriate planning condition had been agreed to ensure that no development should take place until the crossing works had been carried out, and there is no reason for this decision to conclude that such a condition would contravene the advice in Circular 11/95.
11. Policy Mo5 of the Reigate and Banstead Local Plan, adopted 2005, requires that access and circulation requirements are appropriate to the type of development, and do not aggravate traffic congestion or diminish road safety. For the reasons given above, the proposed improvements would meet this objective by outweighing any harm arising out of the additional vehicle movements. It is therefore concluded on the main issue that the development would not have an unacceptable effect on highway safety in respect of the geometry and gradient of the access drive, and pedestrian visibility at its junction with Lesbourne Road.

Other Matters

12. A number of matters have been raised by local residents, including the relationship of the property to heritage assets. The site falls within the Reigate Town Centre Conservation Area, and is adjacent to the rear of a row of Grade II listed buildings in Bell Street, including No 109. It is noted that the scale and appearance of the new houses would not be out of keeping with the built form in the area and, in as much as the site is set behind the general building frontage, they would not be readily apparent from public areas within the

Conservation Area. There would be adequate separation from the rear of the Listed Buildings to avoid unduly affecting their setting. Overall, the development would preserve the special character of the listed buildings, and the character and appearance of the Conservation Area.

13. The site was formerly part of the garden of No 109 Bell Street, it being indicated at the Hearing that the split took place about 2 years ago. Concern is expressed that, following changes to Planning Policy Statement 3, the site should no longer be considered previously developed land, and therefore not a priority location for new housing. The Government indicated that the changes to national policy were introduced in order to give more power to local authorities and communities to resist inappropriate development. In this instance, the Council have not raised an objection in principle to the use of this land for housing, and they are satisfied that the position of the site would not be in conflict with development plan objectives. There are not compelling grounds for this decision to take a different view on this point.
14. The site abuts the rear of houses in Lesbourne Road and, in particular, the development of plot 3 would have some effect on the aspect of the rear of the adjoining properties, especially as the site is at a significantly higher level. To ameliorate the situation the two storey portion of the new house would be set away from the boundary, the nearer portion of the development being a single garage, set at a lower level. It is appreciated that the nature of the view from the back of the adjoining houses, which is presently of the trees on the site, would become more urban in character. However, this would not amount to an undue loss of residential amenity, and the layout of the houses would avoid excessive overbearing, restriction of daylight, or overlooking.
15. Other points are noted, including the effect on the trees and vegetation on and bordering the site, and the impact on local infrastructure. However, the evidence does not indicate that these, or the foregoing matters, would amount to reasons to dismiss the appeal.

Conditions

16. The conditions put forward by the Council have been considered in relation to the tests in Circular 11/95. A condition is necessary to specify the approved drawings, including clarification as to which details apply in respect of plot 3, for the avoidance of doubt and in the interests of proper planning. Conditions concerning the choice of materials, landscaping, and protection of trees, are required for the benefit of the appearance of the area. However, in view of the separation of the site from the remainder of the Conservation Area, it is not accepted that there is a substantiated need for the further approval of design details, or specification of paint colours.
17. A condition is applied to specify ground and site levels, in order to avoid undue loss of amenity in adjoining property. Conditions are required to obtain improvements to the access road and sight lines, the prior movement of the zebra crossing, the provision of on-site access and parking, and the preparation of a construction method statement, for the benefit of road safety. The appellants have carried out an initial assessment of the likelihood of pollution of the site, concluding that there is a very low risk. Whilst the Council's concerns about adjoining uses are noted, there is not a compelling case for a condition to require further investigation for contamination.

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 09/22/06K, 09/22/09H, 09/22/13A, SMD06/03/2011, and TSP/SIX/P1994/07, unless amended by compliance with these conditions. In the case of discrepancies between drawings, development of the house on plot 3 shall proceed on the basis of the details on drawing No 09/22/13A.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted, including joinery and rainwater goods, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) Tree protection works in accordance with the recommendations of the Arboricultural Implications Report by ACS Consulting dated 3 March 2011 shall be carried out, and retained during the course of construction, in accordance with the programme of works contained in that Report.
- 5) No development shall take place until full details of hard landscape works have been submitted to and approved in writing by the local planning authority. These details shall include means of enclosure and boundary treatment; external surface treatment, including of the driveway connection to Lesbourne Road and proposals for non-skid surfacing; and the bin store. No house shall be occupied until hard landscape works have been completed in accordance with the approved details.
- 6) Soft landscaping works shall be carried out in accordance with the approved plans and the recommendations of the Landscape Specification by Earthbound Services Southeast Ltd, dated 6 March 2011, in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 7) No development shall take place until details of the existing and proposed ground levels and finished ground floor levels of plots 1 and 2 have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details, and with those on drawing 09/22/13A with respect to plot 3.
- 8) No other development shall take place until the proposed modified access to Lesbourne Road has been constructed in accordance with the approved plans, including the provision of 2mx2m visibility zones shown on drawing TSP/SIX/P1994/07. The visibility zones, to the extent that they lie within the appeal site, shall be permanently kept clear of any obstruction to visibility between 0.6 and 2.0m above road level.
- 9) None of the houses shall be occupied until parking, access and manoeuvring areas have been completed in accordance with the

approved plans, and thereafter such areas shall be kept available for their designated purpose.

- 10) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for i) the parking of vehicles of site operatives and visitors, ii) loading and unloading of plant and materials, iii) storage of plant and materials used in constructing the development, and iv) a programme of works including measures for traffic management.
- 11) No development shall take place until the relocated zebra crossing has been constructed in accordance with drawing No TSP/SIX/P1994/07.

John Chase

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

M Druce	Barrister
N Stillwell BSc, CEng, MICE, MCIHT, FIHE, FAIRSO	Stillwell Partnership, Consulting engineers
G Skipper BA, DipArch, RIBA	Fulcrum Design, Architects
C Bouchez	Sixmile Developments, Appellant

FOR THE LOCAL PLANNING AUTHORITY:

A Benson BSc, MSc, MRTPI	Planning Department, Reigate and Banstead Borough Council
R Cooper BA, MSc	Surrey County Council

INTERESTED PERSONS:

P Saddler	Local resident
G Klein	Local resident
J & C Squirrell	Local residents
M Evans	Local resident
T Dittert	Local resident
M Collyer	Local resident

DOCUMENTS

- 1 Proposed condition to secure construction of zebra crossing
- 2 Appeal decisions at Sanderstead Road, Croydon
- 3 Letter from Punch Taverns to the appellants dated 18 July 2011
- 4 Map of Conservation Area
- 5 Schedule of Listed Buildings in the area
- 6 Extracts from Tree Preservation Orders
- 7 Extract from the Encyclopaedia of Planning Law re: Merritt v Sec. of State 2000.
- 8 Contamination report, Alpha Environmental